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SUPERIOR COURT OF STATE OF ARIZONA
COUNTY OF YAVAPAI

State of Arizona,

Plaintiff,

vs.

James Arthur Ray,

Defendant.

CASE NO. V1300CR201080049

Div. PTB

**DEFENDANT JAMES ARTHUR RAY'S
MOTION TO SUPPRESS YOUTUBE
VIDEO'S**

COMES NOW, Defendant by and through his undersigned attorneys, and requests this court enter its orders precluding the State from introducing any statements made by Mr. Ray on the internet site known as "You Tube." This motion is based on the pleadings and papers on file in this matter and the following memorandum of points and authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

1. Facts.

In its Ninth Supplemental Disclosure dated July 30, 2010, the state disclosed "Videos of Defendant off You Tube as of June 6, 2010." The referenced videos were prepared after the date of

1 this incident and discuss self-help topics such as "How to Flow Through Life's Challenges." Mr.
2 Ray's video statements make no reference to any aspect of the Spiritual Warrior Retreats conducted
3 by JRI Enterprises in Sedona, Arizona.

4 **2. Legal Argument.**

5
6 The proffered video taped statements have no relevance to any issue of fact relating to any
7 aspect of the crimes charged in the Indictment. Moreover, the probative value, if any, of proffered
8 evidence must be weighed against its prejudicial effect. In this case, the video taped statements
9 offered by the state have little or no probative value. They are simply being offered to prejudice
10 defendant in front of the jury by showing Defendant remains engaged in self-help tutorials despite
11 the allegations of wrongdoing alleged in the Indictment. Under such circumstances the video tapes
12 should be suppressed.

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14 A two-part test is utilized to determine whether this type of evidence is admissible. *State v.*
15 *Chapple*, 135 Ariz. 281, 660 P.2d 1208, 1215 (Ariz. 1983). Part one requires that it must be
16 relevant to an issue in the case. Part two requires the probative value of the evidence to outweigh
17 the danger of unfair prejudice. *Id.* Under the second prong of this test, if the materials would tend
18 to incite passion or inflame the jury, their probative value must be weighted against any unfair
19 prejudice caused by its admission. *Id.*; see also *State v. Stuard*, 176 Ariz. 589, 863 P.2d 881, 894
20 (Ariz. 1993).

21
22 The videos have no relevance as to any factual issue relating to whether Mr. Ray recklessly
23 caused the death of the three alleged victims. Given the lack of any relevance to the charged
24 crimes, admission of the above-listed evidence would simply unfairly prejudice the jury and allow
25 the State to argue Mr. Ray "is still a danger" or "has not learned his lesson" or something similar.
26 Such a purpose is simply designed to inflame the passions of the jury and has no relevance to the
27 charged crimes.
28

1 Based on the foregoing, it is requested the Court preclude the State from introducing the
2 You Tube videos during the trial of this matter.

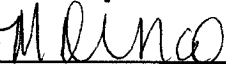
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5 DATED: December 27, 2010

MUNGER, TOLLES & OLSON LLP
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10 By: 
Attorneys for Defendant James Arthur Ray

11 Copy of the foregoing mailed/
12 faxed/delivered this 27th
day of December, 2010, to:
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14 255 E. Gurley
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